

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ERIK ROSVOLD,

Plaintiff/Counter-Defendant, Case No. 04-75009

v. District Judge Julian Abele Cook, Jr.
Magistrate Judge R. Steven Whalen

L.S.M. SYSTEMS ENGINEERING,
INC., a Domestic Profit Corporation,

Defendant/Counter-Plaintiff,

ORDER GRANTING MOTION TO COMPEL

Before the Court is Defendant's Motion to Compel Answers to First Set of Interrogatories and First Requests to Produce [Docket #19].

Although this motion was filed on November 3, 2005, Plaintiff has not filed a response. On February 9, 2006, the Court received correspondence from counsel for Defendant indicating that Defendant had requested an adjournment of the hearing on this motion "in reliance upon Plaintiff's representation that discovery would be immediately forthcoming." Defendant indicated that the motion would be withdrawn upon receipt of the requested discovery.

Time passed. Not having heard from the parties as to whether the matter had been

resolved, the Court sent a Notice of Hearing setting April 25, 2006 as the hearing date. The Notice specifically stated that Defendant's Motion to Compel, Docket #19, filed 11/3/05, would be heard on that date.

At the motion hearing on April 25, 2006, Plaintiff's counsel stated his belief that he was present to argue a different motion, specifically, Plaintiff's motion for default judgment [Docket #33]. At that time, the motion for default judgment had not even been referred to the undersigned Magistrate Judge, although it has since been referred. A review of the docket shows that as of April 26th, the Court had not sent a Notice of Hearing with regard to the motion for default judgment. In any event, the Court adjourned the hearing and took the matter under advisement.

The Defendant's discovery requests fall comfortably within the ambit of Fed.R.Civ.P. 26, 33 and 34. The time for either responding to or filing written objections to those requests has long since past. Further, Plaintiff has not filed a response to the present motion. The Court sees no necessity to reschedule oral argument in an unopposed motion where in any event, Plaintiff has waived objections to the requested discovery. Accordingly, the motion will be determined without oral argument pursuant to E.D. Mich. L.R. 7.1(e)(2). Because (1) the Defendant has requested discovery of relevant material and (2) Plaintiff has waived objections,

IT IS THEREFORE ORDERED that Defendant's Motion to Compel Discovery [Docket #19] is GRANTED.

IT IS FURTHER ORDERED that Plaintiff will produce the requested discovery

within 10 days of the date of this Order.

S/R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: May 11, 2006

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served on the attorneys and/or parties of record by electronic means or U.S. Mail on May 11, 2006.

S/Gina Wilson
Judicial Assistant